IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.991 OF 2007

Shivram Pandurang Chipkar ..Petitioner.
Vs.
The Accountant General
(A & E) -1 Mumbai & another ..Respondents.

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Mr. S.D. Dighe for the Petitioner.
Ms.Geeta Shastri, AGP for the State.

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CORAM: **SWATANTER KUMAR, C.J. &**
DR. D.Y. CHANDRACHUD, J.

11th September, 2007.

P.C. :

Heard the learned counsel appearing for the parties.

2. The challenge in the present Petition is to three different orders which have been annexed to the Writ Petition as Exh. D, G and H respectively. As far as the grievance of the Petitioner in regard to the date of retirement is concerned, that does not survive inasmuch as the Respondent on its own had already corrected the date of retirement of the Petitioner as 9th November, 1990 in place of 2nd September, 1993.

3. As far as the orders dated 6th July, 2005 and 10th August,

2005 are concerned, they relate to the payment of pension, stoppage of pension and other consequential benefits flowing therefrom. According to the Respondents, the Petitioner had exercised his option for payment of lump sum pension in lieu of regular pension and therefore, he was overpaid and nothing was payable to the Petitioner on account of the pension account. These facts are disputed by the Petitioner. According to the Petitioner, he had never exercised the option of lump sum pension and was entitled to regular pension according to rules which has been arbitrarily stopped by the Respondents.

4. In the light of the aforesaid facts, no hearing was granted to the Petitioner by either of the Respondents. The action of the Respondents is in violation of natural justice. Apparently it may be an administrative order, but certainly visits the Petitioner with civil consequences and it was mandatory on the part of the Respondents to give hearing to the Petitioner before passing such an order practically relating to stoppage of pension or payment of any kind to the Petitioner. Resultantly we have no hesitation in quashing and setting aside the orders at Exhibits D, G and H to the Petition and the same stand quashed, with a direction to the

Respondents to hear the Petitioner and pass appropriate orders in accordance with law within four weeks from today. If any dues on account of pension are found to be due, the same shall be paid along with the letter / order to be passed by the Respondents. If any adverse order is passed, the Petitioner is at liberty to challenge the same in accordance with law. The Writ Petition is disposed of leaving the parties to bear their own costs.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.